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FOR AF/E, EUR/UBI, AND PM/ISO

E.O. 12958: DECL: 06/01/2016
TAGS: [MARR](#) [PREL](#) [MP](#) [UK](#) [IO](#)
SUBJECT: HMG SET TO APPEAL HIGH COURT RULING PERMITTING
RESETTLEMENT OF THE CHAGOS ISLANDS

REF: A. 11 MAY 2006 LONDON DAILY REPORT

[1](#)B. PORT LOUIS 271

[1](#)C. PORT LOUIS 288

Classified By: Ambassador Robert H. Tuttle, reasons 1.4, b/d.

[1](#)1. (C) Summary: The UK High Court May 11 overturned the 2004 Orders in Council which barred the Chagossian Islanders from resettling the islands around Diego Garcia from which they were forcibly removed in the 1960s when the U.S. sought to establish the Naval Support Facility there. HMG has confirmed to us but not announced that it will appeal the decision based on economics and the security of the military base. The Mauritian High Commissioner in London submitted a request to the Ambassador May 11 that the USG enter into trilateral discussions with the UK and Mauritius to return sovereignty of the islands to Mauritius at some point in the future. FCO believes such a discussion is particularly ill timed, as the Chagossians are likely to strongly object to the UK bargaining away their islands after the court has firmly sided with them. The Mauritians may be pushing the issue now because they fear the Chagossians will prefer to resettle the islands as British subjects and object to Mauritian sovereignty claims. End Summary.

Chagossians Win Court Case; HMG Vows to Fight On

[1](#)2. (C) Per refs a-c, the UK High Court ruled May 11 that families forcibly removed from the Chagos Islands by the British Government some three decades ago when the U.S. established a naval base on Diego Garcia have the right to resettle the Chagos Archipelago, to which Diego Garcia belongs. (Note: They are NOT requesting to resettle on Diego Garcia itself. End note.) This is the latest in a series of hearings/verdicts since 2000 when the High Court ruled that the expulsion of the Chagossians was illegal and the 2004 Orders in Council, known as the Royal Prerogative, which then blocked Chagossian resettlement of the outer islands. HMG had justified the Orders in Council on the grounds that resettlement would be prohibitively expensive for such a small group of people and on national security grounds. (Note: The USG had noted to HMG at the case's outset that the outer islands should not be resettled due to concerns that security around Diego Garcia would be difficult to ensure if resident populations were nearby. End note.) The May 11 ruling overturns the Orders in Council. FCO tells us it had expected to lose this case, as it was apparently quite obvious during the hearings that the two judges were biased in favor of the Chagossians. The ruling grants the right of

appeal, however, and the FCO assures us it will do so by the filing deadline of June 8. FCO's lawyer told us the case "will go on for years."

¶3. (C) There is ongoing activity on the Chagossians' behalf. On May 10, a lawyer for the Chagossians sent an open letter to PM Blair (emailed to EUR/UBI) asking him to reverse HMG policy on resettlement because it would not be that expensive and a settlement 100 miles from Diego Garcia could not be any more of a security threat than yachts which are allowed innocent passage three miles from the naval base. He says, "I believe there are times when the Prime Minister has a duty to stand up for what is right, even if it means confronting a demanding friend." (Note: FCO tells us their initial estimate of resettlement costs is in the range of 50 million pounds. End note.)

Mauritian Proposal to Secure Sovereignty of the Chagos

¶4. (C) The Mauritian High Commissioner wasted no time in requesting a courtesy call on the Ambassador. During that meeting May 12, he proposed trilateral talks between the U.S., UK, and Mauritius on the future status of the archipelago. The HiCom said his government was flexible on the options and could even consider an indefinite commitment to return sovereignty of the islands once the U.S. military no longer needed Diego Garcia. He added that Mauritian PM Ramgoolam would be visiting London soon, and this issue would feature prominently. The Ambassador said he would relay this proposal to Washington.

¶5. (C) Subsequently we have confirmed that the Mauritians have approached the FCO (again) with a proposal for "trilateral" discussions that include the Chagossians. In the past HMG has verbally committed to returning the islands

to Mauritius when they are no longer needed for defense purposes, but FCO assesses that the Mauritians would like something more formal.

Potential Division of Mauritian and Chagossian Interests

¶6. (C) We understand from Embassy Port Louis the GOM may be re-energizing its sovereignty claim because resettlement of the outer islands as a British Overseas Territories could undercut this claim. FCO contacts opine that Mauritius is primarily interested in the fishing rights of the territorial waters. The Chagossians, however, apparently prefer to resettle the islands as British subjects (thus at the expense of HM Treasury) than as part of Mauritius, which has done little to alleviate their poverty since their arrival there. If successfully resettled as British subjects, the Chagossians are likely to oppose Mauritius' claim. FCO says the court verdict complicates any discussion of sovereignty as the court (and Chagossian advocates) would view dimly HMG's negotiating away the islands after so recently reaffirming them as a Chagossian homeland. Furthermore, FCO feels such discussions could raise "unreasonable expectations" in Mauritian minds about when the islands might be turned over. HMG would consider, however, a conciliatory gesture that might persuade Mauritius not to take its case to the International Court of Justice, which it has threatened to do in the past.

¶7. (C) FCO has heard that Mauritian FM Dulloo will be visiting Washington in the coming weeks and recommends we coordinate closely on how to respond to the proposal for trilateral talks.

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Tuttle